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Government of Bengal

Commerce Department

Annual Report on the Working of the Payment of Wages Act in Bengal

During the year 1939

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Superintendent, Government Printing
Bengal Government Press, Alipore, Bengal
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Price—Indian, annas 4; English, 6d.

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Agents in India.

Messrs. S. K. Lahiri & Co., Ltd., Printers and Booksellers, College Street, Calcutta.

Messrs. Thacker, Spink & Co., Calcutta.

Customers in the United Kingdom and the Continent of Europe may obtain publications either direct from the High Commissioner's office or through any bookseller.

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Annual Report on the Working of the Payment of Wages Act in Bengal during the year 1939.

The Chief Inspector of Factories, Bengal, and the Authority under the Payment of Wages Act, Bengal, have submitted their annual report, on the administration of the Payment of Wages Act in Bengal during the year 1939.

The reports are amalgamated and reproduced as follows:—

Mr. R. C. Parsons remained in charge of the Factories Department as officiating Chief Inspector of Factories, Bengal, during the absence on leave of Mr. J. B. McBride, the permanent incumbent from the 20th January to the 1st November 1939 and the latter was in charge for the remaining period of the year. Mr. S. N. Modak, I.C.S., Commissioner for Workmen's Compensation, Bengal, was the Authority under the Payment of Wages Act and continued in charge of the administration of the Act throughout the year as the only Authority appointed under section 15 for the whole of the Province of Bengal in addition to his other duties as Commissioner for Workmen's Compensation, Bengal.

The Authority reports that owing to the great increase in the volume of work in connection with the administration of the Workmen's Compensation Act it was not possible for him to devote more than one or two days a week exclusively for the hearing of cases under the Payment of Wages Act.

1.—Extent of applications and inspections.

1. **Number of factories and persons involved.**—At the close of the year, the total number of factories covered by the definition 2 (*j*) of the Factories Act and from which annual returns were submissible to the Chief Inspector of Factories, under the Bengal Payment of Wages Rules, was 1,661.

From the returns thus submitted the total average number of persons subject to the protection of the Act was 528,434 (*see* Return I). On account of the advent of the Payment of Wages (Federal Railways) Rules by which returns concerning railway factories are submissible to the Supervisor of Railway Labour and the amendment to rule 18 of the Bengal Payment of Wages Rules under Government Notification No. 2652-Com., dated 24th August 1939, by which all factories, irrespective of whether fines and deductions have been imposed or not, are now obliged to submit returns, the various totals in the statement are not capable of comparison with those given in the report of last year.

Moreover, from a comparison of Factories Act and Payment of Wages Act returns of factories in which contract labour is employed, it is quite evident that the former has been excluded from the Payment of Wages Act returns. The fact that there is a difference of 7,989 in the corresponding totals of persons employed in jute presses indicates, moreover, that the defect must be substantial. As pointed out elsewhere in connection with the application of the Payment of Wages Act to contract labour generally, for administrative reasons, the remedy, however, lies not by way of recognition and enforcement of the contractors' obligations as employers but by way of amendment of the

Act to eliminate such fractionised responsibility and to secure the recognition of one person as employer for all purposes of the Act.

2. **Inspections.**—A total of approximately 1,268 visits to factories were made by Inspectors during the year. One thousand and ninety-six of these were of a general and routine nature concerning not only Payment of Wages but Factories Act matters also. The remaining 172 were special, generally arising out of complaints, to check and witness wage payments and to establish payment on due date.

2.—Notices and registers.

3. **Display of notices (abstracts and dates of payment).**—Except as regards certain small establishments, the provision respecting abstracts display was found generally adhered to. Persistent infractors were, of course, brought to court although where the workers are illiterate the utility of the abstracts or the turpitude involved in their non-display is doubtful. That the workers cannot make proper use of these notices either through illiteracy or lack of understanding is shown by a number of complaints received respecting matters entirely outside the scope of the Act.

Few large concerns were involved in the breach concerning declaration of dates of payment. The chief infractors were small printing presses and engineering concerns. Difficulties lie not so much, however, in securing display of such notices as in securing adherence to the pay dates so declared. The object of this provision was the curtailment of delay in wage payment within a limited time beyond the wages period. The pay date declaration, however, although an essential for that purpose, is of little value without (*a*) the goodwill of the employer or (*b*) support by way of evidence of the aggrieved workers or documentary evidence by way of properly prescribed registers and (*c*) ability to prosecute for failure to pay by due date. In the matter of prosecution, it is desirable to emphasise that if an employer habitually guilty of delay in the payment of wages is found to have paid all dues by the time the application concerning wages delay is heard by the Authority, the latter will be unable to give a direction. In consequence since a direction is an essential preliminary to sanction of prosecution under the Act, no prosecution can be instituted. This and other defects in the Act and Rules which require amendment have, however, already been the subject of a note to Government.

4. **Registers (wages, fines, deductions and advances).**—Apart from contract labour employment in the larger industrial concerns little exception can be taken regarding adherence to the requirements of the Act and Rules respecting register maintenance. Certain jute mills, however, of comparatively recent establishment were found defaulters respecting the Register of Wages in that although maintaining the requisite fine and advance registers they failed to make the equivalent entries in the Register of Wages. Warnings, however, were sufficient to remedy these defects.

The greatest difficulty, however, has been experienced with the smaller types of factory, principally rice mills, printing presses, engineering hosiery and other miscellaneous establishments and the remedy of prosecution has had to be resorted to in several instances. These

concerns are reluctant to depart from the established custom of maintaining the Registers in the vernacular instead of in English and of keeping their account books in the head office instead of the factory. Although these requirements cannot in themselves establish and secure wages due, yet their enforcement is an essential step in that direction.

An indication of the futility of Registers in their present form when the bona fides of the employer are in doubt, may be gathered from the following experience of an Inspector during the year.

A routine visit to a hosiery factory and inspection of the registers disclosed that wages remined unpaid. After the infractions had been recorded a complaint was received to the effect that fines had been imposed and wages still remained unpaid. A subsequent visit to the factory and a further examination of the registers revealed that the latter were in order and that no wages were outstanding. Workers examined on the spot denied that fines had been imposed or that wages were still due; the amounts alleged to have been received by the workers even tallied with the register entries. Yet immediately after this second visit a similar complaint was received alleging non-payment of wages.

In the case of a small engineering concern also the trade union alleged non-payment of wages but the registers were found maintained correctly and signatures and thumb-impressions had been taken in affirmation of receipt of wages. The trade union secretary's answer to this was that the workers had been made to give their signatures and thumb-impressions but no wages had been paid. That such abuses are prevalent in small concerns there is not much doubt; their elimination would appear, however, to be remote unless strong trade unionism is established and such documentary evidence by way of registers securable as will support the workers' statements in court.

As regards register maintenance by contractors and as indicated in the report of last year, with the Act and Rules in their present form, the problem is still more difficult. Much doubt exists as to whether the substantive provisions of the Act can ever be secured to contract labour as long as the law recognises a contractor as an employer with the responsibility amongst other things of register maintenance with regard to the men he employs. Although mindful, however, of the above observation, as much attention as could be allotted was paid to those industries in which the contract system is in vogue. The position as disclosed by returns submitted towards the end of the year is given hereunder:—

Jute mill contract labour.

	Receiving and despatching of goods.	Miscellaneous (Pressing, bundle carrying, twisting, spindle repairing, etc.).	Total.
Number of contractors	89	190	279
Number of contractors' workers.	5,282	2,379	7,661
Number of contractors not maintaining register of wages.	21	44	65

From this it appears that there are 7,661 workers employed by 279 contractors in jute mills and in the case of 65 contractors the Register of Wages is not maintained, in accordance with the Act. From the records also it seems that 9 mills no longer employ contract labour whatsoever. Although steps are being taken to enforce maintenance of the Register of Wages by the defaulters yet the fact that several mills find themselves in a position to dispense with contract employment and others having recently considerably reduced the numbers so employed, suggests that the proper solution to securing the desired protection to this class of labour, is by way of the gradual elimination of the latter rather than by recognition of contractors as employers under the Act and attempting enforcement through its unsatisfactory provisions.

Apart from the above categories of contract employment there is also contract employment of a kind involved in the employment of coolie helpers by machine and hemming sewers. From information which has been collected it appears that there are 27 mills in which coolie helpers are employed and paid by their machine sewers and 17 mills in which similar workers are employed and paid by machine hemmers. The total number of coolie helpers involved is 1,669 and the number of defaulters respecting Register-of-Wages maintenance 28. Theoretically, all such machine workers are one-man employers and have all responsibilities of the Act as such. The absurdity of their recognition as employers for the purpose of fulfilment of prompt and due wages payment by means of the cumbrous and defective provisions of the Act and Rules, is self-evident. The proper solution here also is by gradual abandonment of the system and adoption of direct employment by mill owners.

That there are already 46 mills employing and paying direct demonstrates clearly that such petty contract employment is non-essential.

General engineering, ship-building, ordnance and other similar factories.—As indicated in the report of last year, the problem of register maintenance with respect to contract labour in this class of concern is inextricably linked with the problem of maintenance of the Register of Workers under the Factories Act. There were certain difficulties in the past not unconnected with the type of register to be maintained under the Factories Act (Act of 1911) and the circumstances of contract employment. Changed conditions, however, and the requirement of a modified form of register under the Factories Act of 1934 together with the obligation under the Payment of Wages Act of 1937 of maintenance of a Register of Wages by prime employer or contractor led to a reconsideration of the problem and the decision that the Register of Workers could now be enforced without much untoward opposition and difficulty and that that enforcement would have a salutary effect on the maintenance of the Register of Wages under the Payment of Wages Act. Consequently, the principal engineering factory managers were duly apprised of the intentions of the department with the result that the Chief Inspector of Factories met the Committee of the Engineering Association and the situation generally discussed. The outcome of that meeting was a general agreement with the views of the Chief Inspector of Factories and an expression of the Association's intention to adhere in future to the requirements of the Factories Act respecting registers.

That the intention has been well implemented and that the exertions of the prime employer in this respect has had a wholesome effect not only on the maintenance of the Register of Wages by their contractors but also on the reduction in contract employment, is shown by information collected towards the end of the year. The changes, however, were not effected without labour, trouble and expense in certain directions notably the Howrah Iron Works (Messrs. Burn & Co.). It may now be recorded that contract employment in the latter concern has been reduced to a comparatively nominal figure.

Of approximately 214 factories covered by the above heading, in only 84 contractors are employed.

The total number of contractors is 544 and the number of workers employed by them 21,540. The number of concerns in which the Register of Wages is not being maintained by contractors has now been reduced to 32.

This, in the circumstances, is very satisfactory, the problem having been reduced to the compass of practicable enforcement provided due weight is given to the matter of additional staff and the increasing responsibilities of the Inspectorate.

Jute Presses.—On account of the exceptional depletion in inspection staff due to leave and sickness and the inherent defects in the Act and Rules particularly with respect to contract employment in which responsibility for wages payment is absurdly fractionised, little headway could be made respecting register maintenance.

The Chief Inspector of Factories met the Committee of the Calcutta Hydraulic Jute Press Association and although the latter admitted that their balers' contract labour do not get a fair deal, they expressed their inability in their peculiar circumstances to effect a change.

The latter were indicated in the report of last year and it was suggested that the position called for abolition of the contract system in this class of concern rather than its accommodation within the law.

It may well be, however, that the rescindment of the notifications under the Factories Act by which jute press occupiers were vouchsafed relief from Register of Workers maintenance might restore the interest in and control of workers which occupiers desire and in consequence, as with engineering concerns, have an indirect effect on reduction in contract employment and the maintenance of the Register of Wages.

3.—Fines, deductions and advances.

5. In so far as directly employed labour in the larger industrial establishments is concerned there is little doubt that where the fining system is practised the limit imposed by the law is generally adhered to.

In jute mills, however, there is an increasing tendency to dispense with the fine system and rely upon a system of warnings and final dismissal as a means of enforcing discipline. In this connection the amount of fines disclosed in Return I concerning this class of factory has generally been imposed on weavers on account of bad work.

On account of complaints received certain cotton mills, although maintaining fine registers showing strict compliance with the law

respecting rate of fining, are open to suspicion. The actual facts concerning such cases, however, are difficult to determine due to certain defects in the Act and Rules and the unreliability of workers as witnesses. These same observations may also be made with respect to fining in small factories; the registers appear to be in order but complaints suggest otherwise.

Similarly with respect to deductions other than fines permissible under sub-section *(2)* of section 7 the registers indicate adherence to the law in industries generally, although in certain directions complaints indicate the contrary. One or two irregularities were discovered in jute mills with respect to damage to tools and cloth, the deductions being based upon a misinterpretation of the expression "entrusted to the employed person for custody" of clause *(c)* of the abovementioned sub-section. On the infractions being pointed out to the managers, however, the amounts in excess of the fine rate were refunded to the workers concerned.

In other miscellaneous establishments also, deductions were found to have been made in connection with subscriptions to Provident Funds to which the Provident Funds Act of 1925 was not applicable.

A case was also discovered of deductions for recovery of an advance of money at a rate in excess of that permitted under the Act. As regards advances, according to the registers maintained for that purpose little money appears to be advanced by employers which had not been already earned; in consequence deductions from wages by way of recovery on that account is not of much moment. The few infractions discovered mostly concerned rice mills, an industry in which advances of comparatively large sums of money to workers for family affairs has long been an established practice.

The above observations, of course, apply to direct employment only and not where workers are employed through contractors. In the later case adherence to the requirements of the law respecting fines, deductions and advances is indeterminate and doubtful even where the requisite registers are maintained. Jute press labour is pre-eminent in this respect, materials having been collected to establish definitely that deductions for such purposes as the following is generally standard practice:—

(a) The cost of the wooden block on which the jute is cut.

(b) Cost of supervision.

(c) Cost of clerks.

(d) Advances of money.

(e) Levy with respect to marriage or other ceremony.

That illegal deductions are very substantial was made known to the Inspector by a Trade Union leader with respect to Durga Puja festivities of the year under report. He pointed out somewhat prior to the latter event that a levy was about to be imposed on the assorters by way of deductions from wages at the rate of Re. 1 per head under the name of "Parbhani" and that balers, mates, mondals and sirdars would share in the result.

Consequently a circular letter was issued to all jute presses in which it was pointed out that such a deduction would be illegal and to make that known to the workers by displaying the circular at the entrance to the factory. The circular was apparently effective in its intentions.

As explained elsewhere, however, fulfilment of the requirements of the Act regarding matters of deductions, etc., is an impossibility with respect to such labour until it is reduced to an extent as to be encompassable by normal administration.

6. **Nature of approvals under section 7.**—A digest of the information concerning the year under report is given in Appendix 2.

7. **Beneficial purposes to which fines have been applied.**—As far as it has been possible to ascertain the proceeds of fines when expended at all, have been disbursed on the standard approved purposes given in the list, Appendix 3.

The practice, however, of making no disbursements at all appears to become more frequent with the consequence of substantial sums of money accumulating.

Since the legal check by way of the Register of Fines on the existence of these accumulations ceases after the expiry of the twelve months within which the register must be preserved, an amendment of the Rule seems desirable either to preserve the check or compel disbursements.

4.—Claims, appeals, etc.

8. **Applications for direction before the Authority.**—The number of applications instituted before the Authority during the year was 429 and 40 applications were pending at the close of the previous year. Of these 429 cases 260 claims were allowed, 159 were dismissed and 50 remained pending at the close of the year; the essential details concerning these are given in Statement III, Return II. Of these applications only 3 were made by Inspectors of Factories the particulars of which are given in Statement II.

The claim concerning wages due to the workers of a jute mill is of interest in view of the amount involved, the circumstances which gave rise to the delay in the wages payment and the satisfactory result. The mill concerned was considered one of the largest if not the largest in the Province, most up-to-date in its plant and machinery and had been established and been successful in its operations for a number of years. Circumstances arose, however, which prevented its continuance in a solvent condition with the result that it was obilged to close down with the workers' wages amounting to Rs. 54,589 remaining unpaid. As, however, there was an immediate likelihood of certain persons purchasing the mill, immediate application before the Authority on behalf of the workers was not made. The negotiations for purchase, however, became protracted possibly on account of the intending purchaser's desire to create circumstances conducive to a low purchase price, and which resulted in the workers becoming restive and a danger to the peace of the neighbourhood. Consequently the Inspector in order to precipitate the issue made application before the Authority for the wages outstanding. This had the desired effect as by the time the case came up for hearing and with the exception of a small amount owing to workers who had left the district the whole of the wages had been paid. The Inspector thereupon withdrew the application.

The printing press case also ended satisfactorily, the claim not proceeding to a direction on account of the wages outstanding having been paid in the interim.

The claim concerning the glass works was also successful to the extent that a direction was secured for the payment of the total amount due, namely, Rs. 10,760-6-0. Although there was no difficulty in realising the decretal amount in a case against the same concern last year yet in this instance certain legal difficulties engendered by a rival creditor were experienced. This matter has been enlarged upon under the appropriate paragraph.

Of the two cases pending at the close of last year concerning a printing press and a metal industry respectively, the former only was successful although as detailed elsewhere untoward complications have arisen in securing disbursement of the decretal amount.

The unsuccessful application concerning the metal industry is of particular interest as demonstrating the difficulty of implementing a substantive provision of the Act when employment is not direct but through or by a contractor.

The Authority's Court decided that the defendant contractor was not a contractor responsible for the payment of the wages due although the principals accepted him and the defendant admitted himself as such. A great deal of evidence was adduced, visits made to the factory and references made at great length to English case law. Although the contractor was paid large sums of money on bills submitted by him to his principals for work done from which he paid his workers and although the names of the latter found no place in the Register of Wages maintained by the Company and the Authority found the defendant to be a contractor of some sort and deprecated the system which permitted "men of straw" to hold the responsibility in the matter of payment of workers' wages, yet the case against the contractor was dismissed on the following grounds, namely (*1*) that the contractor was not responsible for the recruitment of his labour, (*2*) that the contractor was subject to the supervision of his principals. Unfortunately, although the Inspector disagreed with this finding, he was prevented from going to appeal on account of the limitations imposed by section 17 of the Act, namely (*1*) the thirty days' period within which the appeal must be preferred, (*2*) the exclusion of the Inspector from right of appeal on behalf of a worker.

The necessity for amendment of the Act with respect to the latter and other defects has already been pointed out to Government. The case now emphasises that necessity since it is certain that little case law will be established by workers pursuing their own protection unaided and Inspectors will be reluctant to champion claims so long as the law obliges them to withdraw support beyond the stage of the Authority's court.

The workers' right to sue Mortgagees or Receivers in possession was questioned in several cases. The position of workers employed through contractors in factories with regard to their right to proceed against the principal, viz., the owners of factories, was also the issue for decision in several cases. Definition of "employer" under the present Act appears to call for some amendment inasmuch as under the present law it is not impossible for unscrupulous factory owners to recruit their labour force through men of straw as "contractors" with the object of evading their liability for payment of wages. The introduction of some legislation on the lines of section 12 in the Workmen's Compensation Act making employers in factories definitely responsible

for the payment of wages, when contract labour is employed for the ordinary trade or business of a factory seems to deserve careful consideration.

The claims shown in column 7 of the Form as dismissed were mostly settled out of Court on receipt of summons. It is gratifying to note that not a single vexatious or malicious application was instituted during the year. Towards the end of the year a group application on behalf of 20,000 workers of jute presses was filed by a trade union official claiming Rs. 10,80,000 alleged to have been illegally deducted from the workers' wages over a long period. In addition to the above amount claim was also made for compensation amounting to Rs. 1,08,00,000, i.e., ten times the amount alleged to have been illegally deducted. The application could not however be disposed of before the close of the year, as some preliminary discussion on points of law was essential.

9. **Applications for prosecutions before the Authority.**—No application was made by Inspectors for sanction to prosecute during the year. There were, of course, many concerns deserving of prosecution especially with respect to delay in the payment of wages but the Authority's sanction for this is required. The fact, however, that under section 21 sanctioning of prosecution is conditional upon the application for payment of the delayed wages having been granted, apparently enables evasion of prosecution if the delayed wages are found to have been paid by the time the suit is heard. The Authority having thus been prevented from giving a direction has necessarily to dismiss the suit.

This position has already been pointed out to Government and it is clear that as long as the Act remains unamended in the abovementioned direction, there can be no effective way of enforcing habitual defaulters to adhere to the requirements of sub-sections (*1*) and (*2*) of section 5 of the Act.

10. **Realisation of decretal amounts.**—The glass works case instituted this year and the printing press case of last year are of interest under this heading. Although a decree for the full amount of claim in connection with the glass works was obtained yet the money could not be realised on account of the factory property having been placed in the hands of a receiver appointed by another creditor.

The position was referred to the Legal Remembrancer who expressed doubt as to the success of further litigation especially in view of the non-existence of funds for that purpose.

As regards the printing press matter, a small portion of the decretal amount was actually disbursed but as there appeared no likelihood of the remainder forthcoming action under sub-section (*5*) of section 15 was taken. An ex-parte order of the High Court, however, granted to some other creditor prevented further disbursement from the money realised from the sale of the machinery which ensued. In consequence steps have been taken to challenge the correctness of the High Court's order.

Though the average application for recovery of wages due was free from legal complexities and therefore admitted of speedy disposal, several cases involving very intricate legal problems came up for hearing during the year under report.

Another important point that came up for decision was the nature of the decree passed by the Authority under section 15(*3*) of the Act. It was contended on behalf of the workers that in view of the provisions of section 15(*5*) under which the decretal amounts could be recovered through a Magistrate (if the Authority is not himself a Magistrate) in the same manner as a fine imposed by him this Court's decree should be regarded as equivalent to Crown debts and therefore should have priority over other claims. The contention could not however be accepted as the money payable under the directions issued by the Authority could not be held to Crown debts which on realisation would go to the coffers of the State.

In view of the difficulties experienced in some cases in the matter of realisation of the amounts directed to be paid it appears to be desirable that the workers' wages should have preference over all other liabilities and suitable legislation in this direction is desirable.

Details of applications instituted and disposed of during the year under report are furnished in the prescribed form (Return II).

11. **Appeals.**—There were no appeals during the year from the decision of the Authority in connection with any cases initiated by Inspectors.

5.—Complaints.

12. Approximately 162 complains were received, 89 of which had reference to delay in wages payments, 12 concerned illegal deductions, 32 respecting non-payment of wages on dismissal and the remaining 29 regarding miscellaneous matters principally wage increments, payment for holidays and re-instatement after dismissal. The following complainant analysis is of some interest as indicating the extent to which workers make use of collective help by way of trade unions to remedy their grievances:—

Workers ...	95
Anonymous (probable workers) ...	48
Trade Unions ...	11
Lawyers	2
Others ...	6

Generally the majority of the above complainant workers being no longer in employment had nothing further to fear by way of reprisals in the disclosure of their names. On the other hand the anonymous complaints without much doubt concerned workers still in employment and who feared disclosure during course of investigation and possible consequential victimisation.

The remedy undoubtedly lies in strong trade unions but with intelligent leaders graduated from the workers' stage who are mindful not only of the abuses to which workers are subject and the vagaries of the latter, but also the difficulties of factory control and the defective subordinate material on which the employer must rely to carry out his will and purpose.

The classes of factory most concerned with the complaints whatever their nature are as follows :—

Class of factory.		Number of complaints.
Jute mills	...	24
Cotton mills	...	40
Jute presses	...	1
Printing presses	...	27
Engineering concerns	...	26
Hosiery factories	...	12
Miscellaneous	...	32
(Unregistered concerns)	...	9

The majority were investigated and where Payment of Wages Act were strictly applicable and the Inspector not handicapped by defective provisions, his interest was sufficient to effect a remedy.

On the whole the jute mill complaints concerned dismissals, wage increments and similar border line matters, and those in the remaining classes of factory generally referred to non-payment of wages on dismissal or voluntary relinquishment of service by the worker concerned and non-payment of wages on due date.

6.—Prosecutions.

13. The number of cases instituted by Inspectors for contravention of the provisions of the Act and Rules was 27. The various offences and the number of cases under each were :—

Non-display of notice of dates of payment	...	6
Non-display of abstracts	...	11
Non-maintenance of Register of Wages	...	9
Non-maintenance of Register of Fines	...	1

Nine cases were undecided at the close of the year but taking into account the 4 cases pending at the close of the previous year, the total number of cases disposed of during the year under report was 22, all of which ended in conviction with fines imposed ranging from Rs. 5 to Rs. 75.

Further details are given in Appendix 1.

7.—General administrations.

14. In so far as the direct employment in the major industries of jute, cotton, engineering and the larger factories of the various miscellaneous industries, are concerned, the substantive sections of the Act may be said to have been generally adhered to and abuses, if any, of little moment.

Abuses there may be of course, in respect of deductions by subordinates contrived after wages payment and which cannot be checked and disclosed by means of registers and notices as at present maintainable. The criterion of adherence of the law can only be by way of information gathered by register examination, the partially determinate means of surprise inspections respecting payment on due date and complaints from workers. These were generally such as to enable the favourable statement to be made concerning the foregoing class of concern.

It suggests, however, an almost complete dependence upon the goodwill of the employer in securing the requisite protection of labour in wages matters and the futility of the present provisions concerning checks and prosecution.

That this goodwill cannot be relied upon where workers are employed by contractors or in cases of direct employment in the smaller classes of concern is evident from the infractions observed respecting compliance with the auxiliary provisions of the Act, namely, abstracts, notices of pay dates and registers, and the complaints respecting non-payment of wages and alleged illegal deductions.

Apart from the defects in the Act and Rules without the elimination of which the intention of the law cannot be effectively pursued, the undesirability for administrative reasons of recognising a contractor as an employer for the purpose of enforcement of the law, was disclosed in the report of last year with particular reference to contract employment in jute presses. It is doubtful whether the abuses with which contractors' workers are burdened can be eliminated except by abolition of the contract system of employment either directly by amendment of the Act to secure its prohibition or indirectly by the adoption of the amendments already proposed to Government with respect to certain of the Act's paramount requirements and thereby inducing abandonment of the system.

With the system deeply rooted, however, both methods are somewhat drastic, the indirect method involving much work, requiring concentrated effort extending over a considerable period and an enhanced staff. At all events and as already indicated to Government in the matter of amendments of the Act and Rules, if goodwill is not to be the sole impetus to compliance with the law, the provisions must secure the following:—

(1) Maintenance of a Register of Wages which shows not only total wages payable and the deductions but the rates of pay and in the event of piece work the amount of work done during the wages period.

(2) Declaration of not only an exact pay date but in order to enable the Inspector to check the exact wages paid, a definitely short period of that day during which wages must be paid.

(3) Authority to prosecute by the Inspector when wages are not paid on due date, and without the sanction of the Authority.

(4) Authority to prosecute by the Inspector when an illegal deduction has been made and without the sanction of the Authority.

8.—Staff.

15. Although staff both gazetted and clerical as at present sanctioned is normally insufficient to carry out the work of administration in conjunction with its other responsibilities with respect to the Factories Act yet an additional strain was placed upon the officers available by the absence on leave of three Inspectors for the major portion of the year.

Nevertheless the work was carried as efficiently as possible in the circumstances by frequent changes in the Inspectors' respective jurisdictions and the Province satisfactorily covered. With the advent of the Employment of Children (Amendment) Act of 1939, The Bengal Maternity Benefit Act early in the ensuing year and the possibility of further extensions of the Factories Act to concerns not as yet subject to control, the administrative work connected with the Payment of Wages Act is bound to become by dire necessity less intensive and in consequence the removal of abuses jeopardised unless additional qualified staff is appointed. Workers are not sufficiently independent or self reliant, either individually or collectively by virtue of their trade unions, to pursue their grievances before the Authority without the aid of the Inspector. Consequently necessitous cases under this Act absorb and will continue to absorb a great deal of the Inspectors' time and to the detriment of their other administrative work.

APPENDIX I.

Particulars of the prosecution cases instituted by Inspectors during the year showing different kinds of offences in groups.

Class of factory.	District.	Persons prosecuted.	Reasons for prosecution.	Result of prosecution.
1. Oil mill ..	Calcutta ..	Manager and Paymaster	For failing to display notice of dates of payment.	Convicted and fined Rs. 25.
2. Printing press ..	Do. ..	Manager-Occupier and Paymaster.	Ditto ..	Pending.
3. Printing press ..	Do. ..	Occupier and Paymaster	Ditto ..	Ditto.
4. Cement, lime and potteries.	24-Parganas ..	Manager and Paymaster	Ditto	Convicted and fined Rs. 5.
5. Cotton mill ..	Do. ..	Manager ..	Ditto	Convicted and fined Rs. 50.
6. Jute press ..	Dacca ..	Manger and Paymaster	Ditto	Pending.
7. Oil mill ..	Calcutta ..	Manager ..	For failing to maintain register of wages.	Convicted and fined Rs. 25.
8. Cement, lime and potteries.	24-Parganas ..	Manager and Paymaster	Ditto	Convicted and fined Rs. 5.
9. Rice mill ..	Do. ..	Occupier ..	Ditto ..	Pending.
10. Jute press (two cases) ..	Do. ..	Manager ..	(1) For failing to maintain register of wages for the mechanical and press-house staff.	Ditto.
		Press Khalasi Contractor	(2) For failing to maintain register of wages for the Press Khalasis.	Ditto.

Class of factory.	District.	Persons prosecuted.	Reasons for prosecution.	Result of prosecution.
11. Cotton mill ..	24-Parganas ..	Manager ..	For failing to maintain register of fines.	Convicted and fined Rs. 75.
12. General engineering ..	Howrah ..	Manager and Occupier	For failing to maintain register of wages.	Convicted and fined Rs. 30.
13. Umbrella factory ..	Do. ..	Manager ..	Ditto	Convicted and fined Rs. 25.
14. Rice mill ..	Hooghly ..	Ditto ..	For failing to maintain the register of wages in English.	Ditto.
15. Oil mill	Burdwan ..	Occupier ..	For failing to maintain register of wages.	Convicted and fined Rs. 20.
16. Ditto ..	Calcutta ..	Manager ..	For failing to post abstracts of the Act and Rules.	Convicted and fined Rs. 25.
17. Printing press ..	Do. ..	Ditto ..	Ditto	Ditto.
18. Ditto ..	Do. ..	Occupier ..	Ditto ..	Pending.
19. Biscuit factory ..	24-Parganas ..	Manager ..	Ditto	Convicted and fined Rs. 50.
20. Laundry	Howrah ..	Manager and Occupier ..	Ditto	Convicted and fined Rs. 25.
21. General engineering ..	Do. ..	Occupier ..	Ditto	Ditto.
22. Metal stamping ..	Do. ..	Manager ..	Ditto	Convicted and fined Rs. 20.
23. Cement, lime and potteries.	Do. ..	Occupier	Ditto	Convicted and fined Rs. 25.
24. Rice mill ..	Burdwan ..	Ditto ..	For failing to post vernacular abstract of the Act and Rules.	Convicted and fined Rs. 15.
25. General engineering ..	Do. ..	Manager ..	For failing to post abstracts of the Act and Rules.	Pending.
26. Chemicals ..	Do. ..	Ditto ..	Ditto	Ditto.

Result of the cases shown as pending in last year's Report.

Class of factory.	District.	Persons prosecuted.	Reasons for prosecution.	Result of prosecution.
1. Match factory ..	Dacca ..	Occupier and Paymaster	For failing to display notice of dates of payment.	Convicted and fined Rs. 5.
2. Glass works ..	Do. ..	Manager and Paymaster	Ditto	Ditto.
3. General engineering ..	Do. ..	Two Occupiers and Paymasters.	Ditto ..	Convicted and fined Rs. 5 each.
4. Match factory ..	Do. ..	Occupier and Paymaster	For failing to post abstracts of the Act and Rules.	Convicted and fined Rs. 5.

APPENDIX 2.

Nature of approvals under section 7 of the Payment of Wages Act, 1936.

1. Contribution towards Health Insurance and Sickness Benefit Friendly Society of a Company.
2. Subscription to and repayment of advances from the Provident Fund of a Company.
3. Contribution towards the Provident Fund of a Company.
4. Deduction for the payment of advances of a Co-operative Credit Society.

APPENDIX 3.

Payment of Wages Act and Rules.

List of purposes approved under section 8 (8) to which realisations of fines shall be applied.

1. Medical aid including the supply of medicines supplied free of charge to the workers but excluding the provision of first aid boxes required by the Factories Act and Rules to be made available by the employer.
2. Educational facilities for workers and their dependants.
3. Aid to the establishment of or more successful working of co-operative societies for the benefit of employees and their dependants.
4. Sickness benefit schemes and sickness insurance schemes.
5. Welfare activities for employees and their dependants including (*a*) canteens and restaurants run by the factory on a non-profit earning basis and (*b*) all indoor and outdoor sports and recreations.

Approved subject to the condition that should experience show that in the interests of the workers an amendment of the list is necessary, it may, by order in writing, be cancelled by me forthwith.

Chief Inspector of Factories, Bengal.

Dated......................................

STATEMENT I.

Return I—Deduction from wages.

Calendar year, 1939.

Industries.	Average No. of persons employed daily.	Total wages paid including deductions under clauses (*d*) to (*j*) of sub-section (*2*) of section 7 but not other deductions.	Deductions on account of—			Total.
			Fines.	Breach of contract.	Damage or loss.	
		Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
Perennial.						
Coach-building and motor car repairing (Government).	115	52,355 10 0	....	..	....	....
Cotton mills (Government) ..	19	2,143 3 0	....	..	....	....
Dockyards (Government) ..	2,046	1,00,605 0 3	....	..	....	....
Electrical Engineering (Government)	97	15,390 9 6	9 0 6	..	....	9 0 6
General Engineering (Government)	1,709	4,56,208 10 3	....	..	....	....
Mints (Government) ..	933	2,75,507 0 0	....	..	....	....
Ordnance factories (Government) ..	8,106	35,02,789 11 0	109 1 6	..	....	109 1 6
Printing Presses (Government) ..	3,023	22,45,571 12 9	535 15 0	..	....	535 15 0
Saw mills (Government) ..	24	3,441 8 9	....	..	....	....

Industries.	Average No. of persons employed daily.	Total wages paid including deductions under clauses (*d*) to (*j*) of sub-section (*d*) of section 7 but not other deductions.	Deductions on account of—			Total.
			Fines.	Breach of contract.	Damage or loss.	
		Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
Tanneries (Government) ..	32	5,286 9 0	0 12 0	..	....	0 12 0
Telegraph (Government) ..	1,118	4,17,612 11 6	905 15 0	..	....	905 15 0
Water pumping stations (Government).	769	1,82,232 2 0	....	..	....	....
Woollen mills (Govermnent) ..	....	....	....	..	....	....
Miscellaneous (Government) ..	336	61,998 5 3	8 0 0	..	3 4 0	11 4 0
Cotton (spinning, weaving and other factories.	31,887	67,49,628 13 6	20,447 15 3	..	654 1 6	21,102 0 9
Hosiery (*a*)	1,855	4,18,884 4 0	14 5 6	..	41 9 6	55 15 0
Jute mills	2,80,645	6,60,42,634 4 5	26,146 1 6	..	1,061 1 9	27,207 3 3
Silk mills	1,891	4,31,113 12 9	185 10 6	..	....	185 10 6
Miscellaneous (Textile) ..	991	2,41,293 7 6	68 7 0	..	....	68 7 0
Coach-building and motor car repairing.	1,550	5,45,781 2 8	7 12 0	..	....	7 12 0
Electrical engineering ..	1,646	5,15,663 9 9	5 8 0	..	61 11 3	67 3 3
Electrical generating and transforming stations.	1,949	8,01,970 5 9	30 5 0	..	0 12 0	31 1 0
General engineering (*a*) ..	23,873	59,08,717 3 10	393 3 3	..	87 6 9	480 10 0

Kerosene tinning and packing ..	2,560	7,80,222 10 9	....	..	....	....
Metal stamping	1,623	4,89,866 6 10	8 1 0	..	....	8 1 0
Ship-building and engineering ..	12,116	42,12,940 6 3	31 15 0	..	....	31 15 0
Tramways works	1,437	4,46,297 11 8	16 7 6	..	..	16 7 6
Miscellaneous (Engineering) ..	1,362	3,65,334 4 4	115 0 0	..	56 7 9	171 7 9
Iron and steel smelting and rolling mills.	16,914	40,79,095 10 3	30 15 9	53 4 0	21 10 0	105 13 9
Leads melting and lead rolling mills	262	83,477 12 0	....	....	....	....
Mica	22	4,903 8 9	....	....	....	....
Miscellaneous (minerals and metals)	435	1,47,369 7 6	....	....	....	....
Bakeries, biscuit and confectionery ..	1,121	1,99,361 6 9	32 13 0	....	....	32 13 0
Breweries and distilleries ..	309	65,934 4 0	6 5 6	....	2 10 0	8 15 6
Flour mills	1,266	2,91,267 6 3	41 6 6	....	3 7 0	44 13 6
Food canning and bottling ..	58	10,650 0 0	....	....	....	....
Ice and aerated waters	660	1,85,451 13 9	....	....	....	....
Rice mills (*b*)	19,488	18,55,010 11 7	....	....	....	....
Tobacco	1,339	3,73,203 10 9	1 11 3	....	....	1 11 3
Miscellaneous (food, drink and tobacco).	791	3,58,523 2 3	580 10 0	....	....	580 10 0
Bone and manure	1,810	2,79,079 14 3	7 0 0	....	9 0 0	16 0 0
Chemicals	3,816	13,20,975 15 6	170 9 6	2 6 0	....	172 15 6
Gas works	1,445	4,78,837 7 6	15 5 0	....	26 15 0	42 4 0
Lac	1,042	2,23,135 7 6	18 9 0	....	....	18 9 0

(*a*) One factory did not submit return.
(*b*) Three factories did not submit return.

Industries.	Average No. of persons employed daily.	Total wages paid including deductions under clauses (*d*) to (*j*) of sub-section (*2*) of section 7 but not other deductions.	Deductions on account of—			Total.
			Fines.	Breach of contract.	Damage or loss.	
		Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
Matches	4,730	7,99,571 4 3	521 3 0	....	40 12 0	561 15 0
Oil mills	2,067	3,75,525 2 6	....	....	....	....
Paints	1,591	3,96,732 13 3	9 15 6	....	....	9 15 6
Soaps	824	1,72,973 14 3	6 4 0	....	....	6 4 0
Miscellaneous (chemical, dyes, etc.)	969	74,508 14 6	0 10 0	....	....	0 10 0
Paper mills	5,156	14,60,492 9 9	5 8 0	....	4 14 3	10 6 3
Paper pulp	882	2,77,565 2 3	....	....	....	....
Printing, book-binding, etc. ..	6,448	20,30,071 5 8	72 8 6	2 1 9	359 9 6	434 3 9
Miscellaneous (paper and printing)	1,115	1,56,626 6 5	34 13 6	....	....	34 13 6
Bricks and tiles	390	64,975 4 6	....	....	....	....
Carpentry and cabinet making ..	767	2,09,090 0 6	....	....	....	....
Cement, lime and potteries ..	3,555	6,18,096 4 0	421 13 3	....	....	421 13 3
Glass	2,238	3,74,123 6 0	....	....	....	....
Saw mills	514	1,17,958 7 3	....	....	....	....
Stone dressing	212	30,433 12 0	....	2 1 3	....	2 1 3

Miscellaneous (process relating to wood, stone and glass).	407	77,297 4 8	1 0 0	..	1 2 0	2 2 0
Leather and shoe	3,384	16,87,629 1 0	222 13 0	..	318 8 0	541 5 0
Tanneries	267	51,789 1 9	....	..	....	....
Jute presses	12,392	16,79,117 3 0	....	..	....	....
Canvas proofing	60	22,422 12 3	....	..	....	....
Gramophone records ..	675	2,88,334 9 0	....	..	....	....
Laundries	492	1,10,222 7 0	....	..	....	....
Reeds and combs	86	25,670 14 9	....	..	....	....
Rope works	955	2,01,766 4 6	....	..	....	....
Rubber goods	5,326	10,93,559 3 0	3 10 0	..	....	3 10 0
Miscellaneous (miscellaneous) ..	1,814	4,11,316 7 0	7 8 0	5 0 0	....	12 8 0
Total (Perennial) ..	4,91,806	11,80,35,638 14 10	51,252 7 9	64 13 0	2,754 14 3	54,072 3 0
Seasonal.						
Sugar	4,719	3,31,773 10 0	....	..	1 0 0	1 0 0
Tea	17,903	16,67,492 5 10	44 8 6	..	10 10 3	55 2 9
Cotton ginning and baling ..	2,363	1,82,634 9 0	....	..	....	....
Jute presses	11,643	14,46,688 13 9	53 5 6	..	12 8 0	65 13 6
Total (Seasonal) ..	36,628	36,28,589 6 7	97 14 0	..	24 2 3	122 0 3
Grand Total ..	5,28,434	12,16,64,228 5 5	51,350 5 9	64 13 0	2,779 0 6	54,194 3 3

STATEMENT II.

Cases before the Authority (by Inspectors of Factories).

Claims arising out of deductions from and payment of wages during the Calendar year, 1939.

Nature of claim.	Pending at beginning of year.	Instituted during the year.	Total amount claimed in cases in columns 2 and 3 in respect of wages and deductions, but not compensation.	Number of claims allowed.	Amount allowed.		Number of claims dismissed.	Vexatious or malicious applications.		Number of cases pending at end of year.	Number of appeals.
					Wages.	Compensation.		Number of cases in which penalty imposed.	Amount of penalty.		
1	2	3	4	5	6	7	8	9	10	11	12
			Rs. a. p.		Rs. a. p.						
Delay in payment	1 printing press	....	10,000 0 0 (approximate).	1	8,091 8 3	..	..	..	..	..	..
	1 miscellaneous (miscellaneous.)	....	1,400 0 0 (approximate).	1	..	..	1	..	..	..	..
		1 glass works ..	10,760 6 0	1	10,760 6 0	..	..	..	..	..	..
		1 jute mills ..	54,589 0 0	1	54,589 0 0	..	1*	..	..	..	..
		1 printing press	177 0 0	1	177 0 0	..	1†	..	..	..	..

*Case withdrawn on the grounds that the whole of the wages were paid before hearing.
†Amount paid by the employer before hearing.

Note.—Enter as a footnote for columns 2 and 3 the total number of claimants distinguishing between single claimants and persons claiming as members of an unpaid group.

Individual applications	.. ..		Number of persons involved	.. ..
Group applications	..	5	Ditto	.. 10,081 (approximately).
Total	..	5	Total	.. 10,081

STATEMENT III.

Return II—Cases before the Authority.

Claims arising out of deductions from and payment of wages during the Calendar year, 1939.

Nature of claim.	Pending at beginning of year.	Instituted during the year.	Total amount claimed in cases in columns 2 and 3 in respect of wages and deductions, but not compensation.	No. of claims allowed.	Amount allowed.		No. of claims dismissed.	Vexatious or malicious applications.		No. of cases pending at the end of year.	No. of appeals.
					Wages.	Compensation.		No. of cases in which penalty imposed.	Amount of penalty.		
1	2	3	4	5	6	7	8	9	10	11	12
			Rs. a. p.								
Deduction ..	..	5	1,18,93,215 5 0	2	388 6 3	143 0 0	1	..	..	2	..
Delay in payment	40	424	1,72,648 9 7	258	35,231 9 2	235 0 0	158	..	..	48	2
Total ..	40	429	1,20,65,863 14 7	260	35,619 15 5	378 0 0	159	..	..	50	2

NOTE.—Enter as a footnote for columns 2 and 3 the total number of claimants distinguishing between single claimants and persons claiming as members of an unpaid group.

		Persons involved.
Individual applications	391	391
Group applications	79	21,051
Total ..	469	21,442

STATEMENT IV.

Return III—Convictions.

(Calendar year, 1939.)

Number of convictions during the year for offences relating to—

Payment of wages.	Deductions from wages.	Notices, Registers and Returns.	Total.	Remarks.
1	2	3	4	5
....	....	22	22	..

B. G. Press—1940-41—6817E—350.